

1 Brian J. Lawler SBN 221488

2 **PILOT LAW, P.C.**

3 4632 Mt. Gaywas Drive

4 San Diego, California 92117

5 Telephone: (619) 255-2398

6 *blawler@pilotlawcorp.com*

7 *Attorney for Plaintiff*

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CARLOS GONZALEZ, an individual,

Plaintiff,

v.

REBORN CABINETS, LLC, a
California Limited Liability Company,

Defendant.

Case No.:

COMPLAINT FOR DAMAGES

**VIOLATIONS OF 38 U.S.C. §4301
ET SEQ;**

**(2) VIOLATIONS OF
CALIFORNIA MILITARY AND
VETERANS CODE §394**

**FILING FEE WAIVED PER 38
U.S.C. § 4323(h)**

DEMAND FOR JURY TRIAL

Plaintiff CARLOS GONZALEZ hereby complains against Defendant REBORN CABINETS, LLC, as follows:

NATURE OF ACTION

1. This is a civil action brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301 *et. seq.* (“USERRA”), and the California Military and Veterans Code (“MVC”) § 394. It is brought by Plaintiff Carlos Gonzalez (“Mr. Gonzalez”) by Defendant Reborn Cabinets, LLC. (“Reborn”), a California limited liability company.

1 **PARTIES**

2 2. Plaintiff is a citizen of the United States and a resident of California.

3 3. At all relevant times, Plaintiff was qualified member of the uniformed
4 services for purposes of 38 U.S.C. §4303(3), (9), and (16), serving as a member of the
5 United States Marine Corps Reserve (“USMCR”).

6 4. Plaintiff is informed, believes, and thereon alleges that Reborn is a
7 California limited liability company with its principal place of business at 5515 E. La
8 Palma Avenue, Suite 250 Anaheim, CA 92807. Reborn’s registered agent for service
9 as listed by the CA Secretary of State is Registered Agent Solutions, Inc. 720 14th
10 Street, Sacramento, CA 95814. At all times relevant, Reborn was an employer for
11 purposes of 38 U.S.C. § 4303(4)(A) and § 4323(i).

12 5. Whenever and wherever reference is made to individuals who are not
13 named as defendants in this action, but were employees/agents of defendants, or any
14 of them herein, such individuals at all times acted on behalf of defendants named in
15 this action within the scope of their respective employments and agencies.

16 6. Whenever and wherever reference is made in this Complaint to any
17 conduct of defendants, or any of them, such allegations or references shall also be
18 deemed to mean the conduct of each defendant, acting individually, jointly and
19 severally.

20 7. Plaintiff is informed and believes, and because of that information and
21 belief allege, that at all times mentioned in this complaint, defendant was the agent and
22 employees of their codefendants, and in doing the things alleged in this complaint were
23 acting within the course and scope of that agency and employment.

24 **JURISDICTION AND VENUE**

25 8. Count I of this complaint arises under USERRA. The jurisdiction of this
26 court is founded on federal question jurisdiction, 28 U.S.C. §1331, as conferred by 38
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1 U.S.C. §4323(b)(3). Venue is proper because Reborn maintains a place of business in
2 the judicial district, as provided in 38 U.S.C. §4323(c)(2), and 28 U.S.C. §1391(b).

3 9. Count II of this complaint arises under California MVC § 394. The
4 jurisdiction of this court as to this Count is conferred by 28 U.S.C. §1367(a).

5 10. Pursuant to 38 U.S.C. § 4323(h), “No fees or court costs may be charged
6 or taxed against any person claiming rights under [USERRA].”

7 **GENERAL FACTUAL ALLEGATIONS**

8 11. Plaintiff re-alleges and incorporates herein by reference each and every
9 allegation contained within paragraphs 1 through 10, inclusive, as though set forth at
10 length herein and made a part hereof.

11 12. On October 9, 2022, Plaintiff applied for a position with Reborn as a
12 Plumbing Apprentice. Upon information and belief, the position paid approximately
13 \$16-20 per hour, and was a full-time position.

14 13. On October 11, 2022, Reborn’s Junior Recruiter, Mr. Ivan Ixba, reached
15 out to Plaintiff to conduct an interview. During the interview, Mr. Ixba stated that the
16 position may require work on some Saturdays. Plaintiff advised Mr. Ixba he was a
17 member of the USMCR and would be required to have certain weekends off to perform
18 his military service obligations.

19 14. On October 12, 2022, Plaintiff emailed Mr. Ixba requesting an update on
20 the status of his application.

21 15. On October 13, 2022, Mr. Ixba responded to Mr. Gonzalez’s email and
22 stated “...unfortunately we aren’t able to accommodate your schedule at this time.”
23 Accordingly, Mr. Gonzalez was not offered the Plumbing Apprentice position with
24 Reborn due to his military service obligation.

25 16. Subsequently, on December 6, 2022, Mr. Gonzalez received an email
26 from Reborn’s Talent Acquisition Specialist, Mr. Ricky Flores, advertising a virtual
27 career fair on Zoom for the open employment positions with Defendant beginning at
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1 10:00 a.m., local time. Mr. Gonzalez joined the Zoom meeting and observed a video
2 prepared by Reborn, wherein its employees described employment opportunities with
3 Reborn, and then gave specific points of contact for potential applicants to reach out to
4 for further information on specific positions. Reborn advertised several positions that
5 did not require previous training because Defendant would provide the training needed
6 for the applicant to perform the requirements of the position. Plaintiff took interest in
7 the Bathroom Installation position Reborn advertised and reached out to Defendant's
8 employee, Ms. Rebeca Prado.

9 17. On December 6, 2022, shortly after the Zoom career fair, Mr. Gonzalez
10 telephoned Ms. Prado. During the conversation, Ms. Prado noted that Reborn had notes
11 indicating they were unable to accommodate Mr. Gonzalez's schedule due to his
12 military service obligation for the Plumbing Apprentice position he applied for in
13 October.

14 18. Mr. Gonzalez emailed Ms. Prado on December 6, 2022 with his
15 anticipated military training dates for January through June of 2023. Ms. Prado did not
16 respond to Mr. Gonzalez's email.

17 19. Mr. Gonzalez again emailed Ms. Prado on December 8, 2022, asking for
18 a follow up on whether his "military training dates are going to be okay..." but received
19 no response from Ms. Prado.

20 20. Plaintiff Gonzalez was not offered the Bathroom Installation position with
21 Defendant Reborn.

22 **FIRST CAUSE OF ACTION**

23 **Violations of 38 U.S.C. §4301 et seq.**

24 21. Plaintiff hereby alleges and incorporates all paragraphs 1-20 above by
25 reference herein.

26 22. USERRA prohibits "discrimination against persons because of their
27 service in the uniformed services." 38 U.S.C. §4301(a)(3).
28

1 23. Plaintiff's protected status as a member of the USMCR was a substantial
2 or motivating factor in Defendant's denial of Plaintiff's benefits of employment
3 without good cause, including, but not limited to, failing to hire Plaintiff because of his
4 military service obligations.

5 24. Section 4311 of USERRA provides, in relevant part, that a person "who
6 is a member of...performs, has performed...or has an obligation to perform service in
7 a uniformed service shall not be *denied initial employment...* or *any benefit of*
8 *employment* by an employer on the basis of that membership...performance of service,
9 or obligation." (italics added).

10 25. Section 4311 (c) provides in relevant part, that "[a]n employer shall be
11 considered to have engaged in actions prohibited... if the person's membership... or
12 obligation for service in the uniformed services is a motivating factor in the employer's
13 action."

14 26. Defendant knowingly and willfully violated USERRA by, among other
15 ways, discriminating against Plaintiff, and by denying him initial employment "on the
16 basis of" his "obligation to perform service in a uniformed service" for two separate
17 positions of employment.

18 27. As a direct and proximate result of the conduct of Defendant as set forth
19 in this count, Plaintiff has suffered injuries and damages including but not limited to,
20 loss of past earnings and benefits, and loss of future earnings and benefits, all to his
21 damage in an amount to be proven at trial.

22 28. Plaintiff alleges such violations of USERRA were willful and requests
23 liquidated damages in an amount equal to the amount of his lost wages and other
24 benefits pursuant to 38 U.S.C. §4323(d)(1)(C).

25 29. Pursuant to 38 U.S.C. §4323(h), Plaintiff further requests an award of
26 reasonable attorney's fees, expert witness fees, and other litigation expenses.

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1 **SECOND CAUSE OF ACTION**

2 **Violations of California Military and Veterans Code §394**

3 30. Plaintiff hereby alleges and incorporates all paragraphs 1-29 above by
4 reference herein.

5 31. Plaintiff brings this claim under California state law with federal court
6 jurisdiction being conferred by 28 U.S.C. §1367(a).

7 32. California Military & Veterans Code §394 provides that no person shall
8 discriminate against any member of the military or naval forces of the United States
9 because of that membership. Section 394 also provides “no member of the military
10 forces shall be prejudiced or injured by any... employer... or denied or disqualified for
11 employment by virtue of membership or service in the military forces of this state or
12 of the United States.”

13 33. Defendant’s motive for failing to employ Plaintiff was his participation in
14 the USMCR.

15 34. As a direct and proximate result of the conduct of Defendant, as set forth
16 in this count, Plaintiff has suffered injuries and damages including but not limited to,
17 loss of past and future earnings, loss of past and future benefits, all to his damage in an
18 amount to be proved at trial.

19 35. As a further direct result of the conduct of Defendant, as set forth in this
20 Count, Plaintiff suffered emotional distress including but not limited to, depression,
21 frustration, anger, loss of self-worth, and humiliation, all to this damage in an amount
22 to be proven at trial.

23 36. Pursuant to MVC §394(g), Plaintiff requests an award of attorneys’ fees
24 against Defendant.

25 **PRAYER FOR RELIEF**

26 **WHEREFORE**, based on the foregoing, Plaintiff prays for relief against
27 Defendant as follows:
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury of all issues triable as of right by a jury in the above action.

Respectfully Submitted,

Dated: January 24, 2023

PILOT LAW, P.C.

By: /s/ Brian J. Lawler

BRIAN J. LAWLER

Attorney for Plaintiff